IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8645 of 2005

For Approval and Signature:

HON'BLE MR.JUSTICE D.A.MEHTA

HON'BLE MS.JUSTICE H.N.DEVANI

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M/S. GUJARAT AMBUJA EXPORTS LTD. & 1 - Petitioner(s)

Versus

THE GOVERNMENT OF INDIA & 2 - Respondent(s)

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Appearance :
MR PARESH M DAVE for Petitioner No(s).: 1,2.
MR JITENDRA MALKAN for Respondent No(s).: 1.
RULE SERVED for Respondent No(s).: 2,3.
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CORAM :HON'BLE MR.JUSTICE D.A.MEHTA

AND

HON'BLE MS.JUSTICE H.N.DEVANI

Date : 15/07/2005

ORAL JUDGMENT

(Per : HON'BLE MR.JUSTICE D.A.MEHTA)

1 Heard Mr.Paresh M.Dave, learned Advocate for the petitioner and Mr.Jitendra Malkan appearing on behalf of

the respondent authorities. Mr.Malkan makes a statement, under instructions of Shri Shivkumar, Deputy Commissioner of Customs, Mundra, who is present in the Court, to the effect that the communication dated 30.3.2005 (Annexure-M) calling upon the petitioner to pay differential amount of duty to the tune of Rs.1,17,829/- shall be withdrawn forthwith. It is further stated that in compliance with the directions issued by this Court in Special Civil Application No.6278 of 2004 and connected matters vide common judgment dated 9.12.2004 rendered by this Court, the respondent authority shall give necessary and proper opportunity of hearing to the petitioner including granting of an opportunity of cross-examination as prayed for in letter dated 30.3.2005 of the petitioner (Annexure-L) in accordance with law. That the respondent authority shall frame the necessary order after the aforesaid process is followed both in letter and spirit.

2 In light of the aforesaid statement Mr.Dave states, under instructions, that the petitioner does not press the challenge to communication dated 30.3.2005 (Annexure-M).

3 In so far as the other prayer viz., restoration of Bank Guarantee of Rs.1,17,289/- is concerned, this Court had already directed the respondent authority by order dated 10.5.2005 to deposit the said sum viz.Rs.1,17,289/- with the Registry of this Court. The Court has taken note of the submissions made on behalf of the respondent authority in its order dated 17.6.2005 and extended the date of depositing the said amount. Accordingly the amount has duly been deposited with the Registry of this Court on 17.6.2005.

4 The Registry is therefore directed to return the amount of Rs.1,17,289/- by an Account Payee Cheque in the name of the petitioner and the petitioner is directed to obtain fresh Bank Guarantee within three working days from the receipt of the Cheque from the Registry of this Court and tender the same before the respondent authority.

5 In view of what is stated hereinbefore, it is not necessary to enter into the merits of the controversy between the parties and hence it is also not necessary to record in detail the submissions made on behalf of the

respective parties by the learned Advocates,

6 The petition is accordingly allowed in the aforesaid terms. Rule made absolute to the aforesaid extent. The respondent shall pay costs quantified at Rs.2500/-.

(D.A.Mehta, J)

(H.N.Devani, J)

m.m.bhatt